

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 5:17-00113

VELARIAN CARTER,
DETRIA CARTER,
RASHAUN CARTER,
CHARLES HILL,
JAMES RODNEY STAPLES,
KARL FUNDERBURK,
LETINA CARTER,
ESAU BURNETTE,
DERRICK STAPLES,
DOMINIC COPNEY,
COREY LARKIN,
GEORGE BROCKMAN,
SHAUN JONES,
SHAUN GIVINS,
JONATHAN BROCKMAN,
JONATHAN VINCENT MOORE,
SHANN AKIEM ANDERSON, and
SHAUN COLEMAN

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court are defendants' motions for a second continuance in this matter. ECF Nos. 369, 371, 373-377. The court GRANTS defendants' motions for the reasons below.

In each motion, defense counsel requests additional time to review the government's Second Supplemental Response to Standard Discovery Requests. See ECF No. 360. Additionally, each motion

represents that the U.S. Attorney's Office does not object to the proposed continuance.

The court believes that failure to grant the requested continuance would likely prejudice defense counsels' ability to effectively represent defendants. Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendants and the public in a speedy trial under 18 U.S.C. § 3161(h)(7)(A). In deciding to grant defendants' motions, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." 18 U.S.C. § 3161(h)(7)(B)(iv).

Deeming it proper to do so, the court **GRANTS** defendants' motions to continue.

Accordingly, the court **ORDERS** as follows:

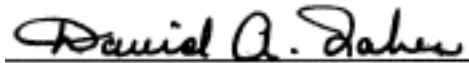
- I. Trial of this action is continued until **Wednesday, January 3, 2018, 2017, at 9:30 a.m.**, in Beckley;
- II. Pre-trial motions are to be filed on or before **Tuesday, December 12, 2017**;
- III. A pretrial motions hearing is scheduled for **Tuesday, December 19, 2017, at 10:30 a.m.**, in Charleston; and

IV. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of defendants' motions until the trial is excludable for purposes of the Speedy Trial Act.¹

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, the United States Marshal for the Southern District of West Virginia, and the Probation Office of this court.

It is **SO ORDERED** this 26th day of October, 2017.

ENTER:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge

¹ The court notes that, for purposes of determining compliance with the Speedy Trial Act, "in cases involving multiple defendants only one speedy trial clock, beginning on the date of the commencement of the speedy trial clock of the most recently added defendant, need be calculated under 18 U.S.C. § 3161(h)(7)." United States v. Piteo, 726 F.2d 50, 52 (2d Cir. 1983); see also United States v. Walker, Nos. 95-5914, 96-4247, 96-4110, 1997 WL 358770, *3 (4th Cir. June 30, 1997) (quoting Piteo).